

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA**

F & D DEFENSE, LLC,

Plaintiff,

v.

1. EAST TEXAS MACHINING &
MANUFACTURING, LLC, and
2. CORBY HALL,

Defendants and Third-Party Plaintiffs,

v.

1. BRIAN SHIRLEY,
2. STEPHEN PRENTICE, and
3. QUAIL CREEK BANK,

Third-Party Defendants.

Case No. CIV-18-060-RAW

ORDER


Before the court are the motion to compel arbitration and stay these proceedings as to Defendant's counterclaims filed by Plaintiff [Docket No. 36], the motion to compel arbitration by Defendants [Docket No. 40] and the Findings and Recommendation as to those motions [Docket No. 49]. In their response to Plaintiff's motion, Defendants agreed that their counterclaims against Plaintiff are subject to arbitration. Plaintiff's motion, therefore, is MOOT.

In its response to Defendants' motion, Plaintiff, argued that its claims are not subject to arbitration. At the time of the entry of the Findings and Recommendation, Defendants' motion was at issue. In its response to the Findings and Recommendation, however, Plaintiff concedes that its claims are subject to arbitration. Plaintiff states that the parties have now agreed to

arbitrate the claims and that the arbitration is well underway and set for final hearing in April of 2019. Accordingly, Defendants' motion is now MOOT as well.

As the court has found the pending motions moot, the Findings and Recommendation and any objections thereto are also MOOT. The court declines to opine on the merits of the issues discussed in Plaintiff's objection to the Findings and Recommendation and Defendants' response thereto, as those matters are currently before an arbitrator. Plaintiff's claims and Defendants' counterclaims are stayed pending the arbitration. Plaintiff and Defendants shall file a joint status report as to those claims and the arbitration no later than May 1, 2019. The third-party claims remain.

IT IS SO ORDERED this 5th day of March, 2019.



THE HONORABLE RONALD A. WHITE
UNITED STATES DISTRICT JUDGE
EASTERN DISTRICT OF OKLAHOMA